

## Section 127 Resource Management Act 1991

### Report on Change or Cancellation of Condition(s)

Application Reference Number:

Original Consent Number:

Applicant:

Site address:

Legal Description:

<District Plan zoning:>

<Proposed District Plan zoning:>

Description of Application:

Change of condition(s)/Cancellation of condition(s) pursuant to section 127 of the Resource Management Act 1991 in respect of a <insert consent type> consent granted on <insert date> for <insert consent description>.

#### Introduction

The applicant is seeking to change/cancel the condition(s) of an existing resource consent (<insert application reference number>) which was granted on a notified/non-notified basis by the <insert Independent Commissioner(s), Committee of Council or delegated officers who approved consent> on <insert date of consent decision>.

<State further here:

- what the original consent was for
- why the activity required resource consent at the time it was applied for eg., what rules it did not comply with under the relevant operative or transitional and proposed plans
- a summary of the conditions imposed on the consent
- a description of the site and locality (if appropriate). >

#### The Proposal

<Describe how the applicant is seeking to change/cancel the condition(s), quoting the existing condition number(s), the wording of the original condition(s) and the new wording sought (if for a change in condition and wording is specified)>.

#### Statutory Considerations

Section 127 of the Resource Management Act states:

**" 127. Change or cancellation of consent condition on application by consent holder –**

- (1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:
  - (a) the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and
  - (b) No holder of any consent may apply for a change or cancellation of a condition on the duration of the consent
- (3) Sections 88 to 121 apply, with all necessary modifications, as if –
  - (a) the application were an application for a resource consent for a discretionary activity; and
  - (b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.

- (4) For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who –
- (a) made a submission on the original application; and
  - (b) may be affected by the change or cancellation."

**Consideration**

<Discuss here:

- whether the application should be treated as a change or cancellation to condition(s) or as a fresh application ie, is the scope of the application such that it is not extending the nature of the application.

The original proposal to <insert description> was processed as a <insert activity status>activity under Rule <insert rule number>. Pursuant to section 127(3)(a), this application for a change of condition is processed as a discretionary activity.

**Has written approval been obtained from every person who may be adversely affected by the change or cancellation? [Section 127(4)]**

Written approval has been obtained from the following persons who may be adversely affected by the granting the application to change/cancel a resource consent condition:

Owner / Occupier	Address

<State here:

- Any parties considered to be adversely affected by the change or cancellation (which may include submitters on the original application), and whether their affected party approval has been obtained
- If these are all the parties that were originally considered adversely affected by the development and if not, justify why they are different – either less or more or different parties.
- Do special circumstances exist under section 95A(4)?

**Sections 95 to 95F Recommendations**

<Discuss here whether the application will be non-notified, limited notified or publicly notified in accordance with the provisions in sections 95 to 95F of the Resource Management Act 1991>

That, pursuant to section x of the Resource Management Act 1991, this application be processed as a non-notified/limited notified/publicly notified application because:

- <summarise assessment here>

Accordingly, I recommend that the application proceed on a <non-notified/limited notified/notified> basis .

Reported and Recommended by: \_\_\_\_\_ <Insert name and position>  
 Date: \_\_\_\_\_

## Section 104 Assessment

Matters to be considered by the council when assessing an application for resource consent under s104 of the Resource Management Act 1991 include (subject to Part II) any actual and potential effects on the environment as a result of the change, any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan, and any other relevant matters. The council must not have regard to trade competition or its effects, or any effect on a person who has given written approval.

Pursuant to section 127(3) of the Act, the consideration of effects is limited to the effects of the change/cancellation only. This assessment does not revisit or reassess the original proposal in its entirety.

### Section 104(1)(a) – Actual and Potential Effects on the Environment

An assessment of effects has been undertaken above, whereby it was concluded that any adverse effects on the environment resulting from the proposed change/cancellation of condition(s) will be *less than minor*/minor/more than minor. The matters discussed and conclusions reached are also applicable to section 104(1)(a) considerations. In addition, it is considered that there will be the following potential positive effects resulting from the proposal: *<Insert positive effects>*. Overall, it is considered that any actual or potential effect of the activity on the environment for which consent is sought will be *less than minor*/minor/more than minor.

### Relevant Policy Statements, Plans or Proposed Plans (section 104(1)(b))

Section 104(1)(b) of the Act sets out that when considering an application for resource consent, the council shall have regard to any relevant provisions of policy statements, national environmental standards and other regulations, plans or proposed plans. Having regard to this, the relevant statutory documents in this case, are addressed below.

*<Insert comments on whether plan changes are relevant>*.

### Objectives and Policies

*<Identify and address all relevant objectives and policies>*

Overall, I consider that the proposal is consistent/inconsistent with these objectives and policies.

### Rules and Assessment Criteria

The *<Insert Plan Name>* Plan specifies the relevant assessment criteria to be considered in assessing this application. Having regard to the assessment of the effects of the proposal and the relevant assessment criteria of the Plan, I make the following comments in regards to this proposal:

*<Insert and address all relevant criteria>*

Overall, I consider that the proposal is meets/does not meet these assessment criteria.

### Other Matters

*<Outline other matters that are relevant>*

OR

There are no other matters relevant to this change of conditions.

## Recommendation

That for the above reasons the application to change/cancel condition(s) *<insert condition(s) number(s)>* of resource consent *<insert application reference number>* granted on *<insert date of consent decision>* **be approved** pursuant to section 127 of the Resource Management Act 1991.

The following condition(s) replace condition(s) *<insert conditions number(s) being changed>* originally imposed:

4.

<Insert wording of new condition.>

Or

Condition(s) <insert conditions numbers being cancelled.>as originally imposed is/are deleted.

Advice Note:

- o All other conditions of the resource consent shall remain unchanged and in force.
- o <insert additional advice notes as appropriate>

Reported and Recommended by: \_\_\_\_\_ <Insert name and position>

Date: \_\_\_\_\_

**DECISION**

That the above recommendation be adopted.

Delegated Officer (Peer Review):

\_\_\_\_\_ <Insert name and position>

Date: \_\_\_\_\_

Delegated Officer:

\_\_\_\_\_ <Insert name and position>

Date: \_\_\_\_\_